

FILED  
KENNETH J. MURPHY  
CLERK

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U.S. DISTRICT COURT  
SOUTHERN DIST. OHIO  
EAST. DIV. COLUMBUS

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE:  
PRETRIAL CONFERENCES

EASTERN DIVISION  
Order No. 01-1

**GENERAL ORDER ON PRETRIAL**

The United States District Judges for the Southern District of Ohio, Eastern Division, do hereby adopt the following general provisions to be applicable in the conduct of all pretrial conferences held by them or by the United States Magistrate Judges pursuant to Rule 16 of the Federal Rules of Civil Procedure, Rule 16.2 of the Local Rules of this Court and Eastern Division Order 91-3.

**I REFERENCE TO A MAGISTRATE JUDGE**

All civil cases, except those categories listed in Rule 16.2 of the Local Rules of this Court, are referred to the Magistrate Judges for the purpose of conducting preliminary pretrial conferences, scheduling conferences, status conferences and settlement conferences. The District Judge in any case that has been referred to a Magistrate Judge under Eastern Division Order 91-3 may at any time, *sua sponte*, elect to conduct conferences and any party or counsel for a party may request, for good cause, that a particular case be handled in its entirety by the District Judge assigned to the case.

**II CONFERENCE OF THE PARTIES**

Consistent with Rule 26(f) of the Federal Rules of Civil Procedure, the parties

shall, no later than twenty-one (21) days prior to the Rule 16(b) preliminary pretrial conference with the Court, confer with each other in a good faith effort to consider the nature and basis of the claims and defenses presented in the case, the discovery that will be reasonably necessary to the resolution of the case, the matters expected to be addressed by the Court at the Rule 16(b) preliminary pretrial conference, and the speedy resolution of the case.

The parties shall jointly file with the Court, at the time required by Rule 26(f) but in any event not fewer than seven (7) days prior to the Rule 16(b) preliminary pretrial conference, a report on the conference of the parties, using the form provided by the Court.

### **III PRELIMINARY PRETRIAL CONFERENCE**

A preliminary pretrial conference will be held pursuant to notice in each action not excluded by operation of Rule 16.2 of the Local Rules of this Court, consistent with Rule 16(b) of the Federal Rules of Civil Procedure. At the preliminary pretrial conference, the District Judge or the Magistrate Judge will consider the following matters:

#### **A. VENUE**

1. Venue and change of venue under applicable provisions of the United States Code
2. Compliance with S.D. Ohio L.R. 82.1

#### **B. JURISDICTION**

1. Jurisdiction over the subject of the action, including consideration of the amount in controversy in diversity cases.
2. Jurisdiction over the parties, including proper and timely service of process.

#### **C. PARTIES**

1. Present parties, including questions of joinder or dismissal of parties.

2. Third parties, including impleading of third party defendants.

D. PLEADINGS AND PRELIMINARY MOTIONS

1. Jury demand or waiver.
2. Pending or contemplated preliminary dispositive motions.
3. Amendments to pleadings

E. ISSUES IN THE CASE

1. Identification and discussion of claims and defenses.
2. Feasibility of separation of issues in the context of discovery, motion practice or trial.

F. DISCOVERY AND DISCLOSURES

1. Compliance with Rule 26(a)(1) of the Federal Rules of Civil Procedure.
2. Expert discovery
  - a. Application of Rule 26(a)(2) of the Federal Rules of Civil Procedure.
  - b. Date by which designations of primary experts must be made.
  - c. Date by which designations of rebuttal experts must be made.
3. Discovery necessary to consider settlement of the case.

G. ESTIMATED TIME TO FINAL PRETRIAL CONFERENCE AND TRIAL

H. SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

The parties must, prior to the preliminary pretrial conference, consider and discuss the possibility of settling the case, as well as appropriate methods of alternative dispute resolution. The Court's Settlement Week program is its preferred method of alternative dispute resolution, and a referral to mediation will, unless otherwise ordered by the Court, be made during the preliminary pretrial conference.

In accordance with Rules 16 and 26(f) of the Federal Rules of Civil Procedure, and with 28 U.S.C. §471 *et seq.*, the parties are encouraged to limit initial discovery to only that necessary for the parties to evaluate the case for settlement. The Court will provide the parties an opportunity to explore alternatives to the completion of all discovery, the filing of dispositive motions, and trial. The case may be set for a settlement conference with the Court, a Settlement Week mediation or any other method of alternative dispute resolution permitted under S.D. Ohio L.R. 16.3 if, at any time during the pretrial proceedings, the District Judge or Magistrate Judge determines that the parties may benefit from such procedure.

I. NEED FOR ADDITIONAL PRETRIAL CONFERENCES

The parties must consider whether additional pretrial conferences, to be held before or after the close of discovery but prior to the final pretrial conference, would be helpful.

J. OTHER MATTERS

Any other matters that will aid in the preparation of the case will also be considered at the preliminary pretrial conference.

K. PRETRIAL ORDER

Following the preliminary pretrial conference, the Court will issue an order summarizing the decisions made at the conference.

IV FINAL PRETRIAL CONFERENCE

Consistent with Rule 16(d) of the Federal Rules of Civil Procedure, a final pretrial conference will be held, upon adequate notice, by either the District Judge or Magistrate Judge assigned to the case. The parties must confer with each other in advance of the final pretrial conference and shall jointly file with the Court, no fewer than three working days prior to the final pretrial conference, a proposed final pretrial order, in strict accordance with the form

provided by the Court.

Unless excused by the Court for good cause, the trial attorney for each party must attend the final pretrial conference. The trial attorney must be prepared and authorized to enter into such additional agreements as may be appropriate. Prior to the final pretrial conference, the trial attorney for each party must fully explore with his or her client the possibility of settlement. If the trial attorney has full negotiating and settlement authority, the client need not be present at the final pretrial conference.

At the final pretrial conference, the District Judge or Magistrate Judge will consider the following matters:

- A. AMENDMENTS TO THE PLEADINGS
- B. THE SEPARATION OF ISSUES
- C. ADMISSIBILITY OF EVIDENCE
- D. THE DATE AND PROBABLE LENGTH OF TRIAL
- E. THE DESIRABILITY OF TRIAL BRIEFS
- F. SETTLEMENT
- G. OTHER MATTERS

Any other matters that will aid in the trial of the case will also be considered at the final pretrial conference.

- H. FINAL PRETRIAL ORDER

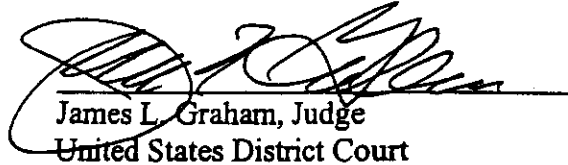
Following the final pretrial conference, the Court will file the final pretrial order.

## **V FAILURE TO COMPLY**

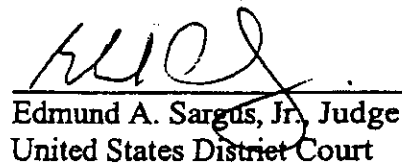
The failure of any party or trial attorney to comply with the provisions of this

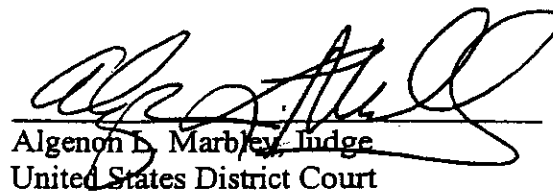
General Order may result in dismissal or default, as may be appropriate.

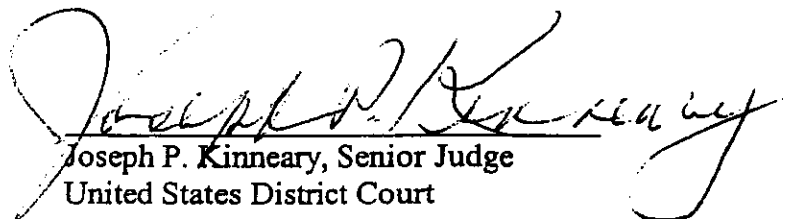
**IT IS SO ORDERED.**

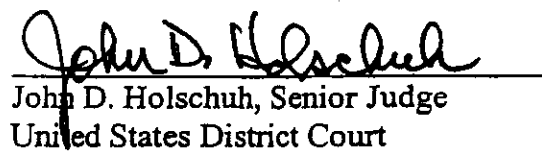
  
James L. Graham, Judge  
United States District Court

  
George C. Smith, Judge  
United States District Court

  
Edmund A. Sargus, Jr., Judge  
United States District Court

  
Algenon L. Marbley, Judge  
United States District Court

  
Joseph P. Kinneary, Senior Judge  
United States District Court

  
John D. Holschuh, Senior Judge  
United States District Court